CALIFORNIA BAY-DELTA AUTHORITY

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**Agenda Item: 8A**
**Meeting Dates: December 8, 2005**

# CONSIDERATION OF A RESOLUTION CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SACRAMENTO RIVER – CHICO LANDING SUBREACH HABITAT RESTORATION PROJECT, ADOPTING CEQA FINDINGS, APPROVING AN ECOSYSTEM RESTORATION PROGRAM GRANT FOR THAT PROJECT AND AUTHORIZING THE DIRECTOR, OR DESIGNEE, TO PROCESS THE APPROVED GRANT

**Summary:** This resolution would certify the Final Environmental Impact Report for the Sacramento River – Chico Landing Subreach Habitat Restoration Project, adopt California Environmental Quality Act (CEQA) and approve up to $3,180,000 to implement the project as described in Attachment 1.

**Recommended Action:** The California Bay-Delta Authority adopt the attached Resolution 05-12-03.

## Background

The Sacramento River Restoration: Chico Landing Subreach project is a directed action under the 2002 Proposal Solicitation Process. The Selection Panel for the Ecosystem Restoration Program's (ERP) Proposal Solicitation Package process recommended funding in the amount of $3,873,663 to The Nature Conservancy for both planning and restoration. In June 2004, the Authority granted $693,657 to complete the site's restoration plan, carry out research activities and prepare environmental documents required by the California Environmental Quality Act (CEQA). The Authority was to consider the remaining funds to implement the restoration plans upon completion of the environmental document. The Final Environmental Impact Report (Final EIR), which includes as a component the Draft EIR, is now complete and available at www.calwater.ca.gov. The Summary Chapter of the Draft EIR is included with this report as Attachment 2.

This request is for the Authority to certify the Final EIR as the State lead agency and approve the remaining funds recommended by the Selection Panel to implement the project (not to exceed $3,180,000).

Attachment 1 further describes the project and how it helps achieve Ecosystem Restoration Program's goals. Attachment 3 describes how the project meets CEQA requirements, including Authority CEQA findings as the State lead agency.

## Fiscal Information

**Funding Source:** Proposition 204
**Term of Grant:** Grant may extend up to 3 years
**Total Amount:** Not to exceed $3,180,000

## List of Attachments

Attachment 1 – Project description
Attachment 2 – EIR Summary
Attachment 3 – Authority CEQA findings
Resolution 05-12-03

## Contact

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Deputy Director for Ecosystem Restoration

# ECOSYSTEM RESTORATION PROJECT DESCRIPTION

**Applicant Organization:** The Nature Conservancy

**Proposal Title:** Sacramento River – Chico Landing Subreach Habitat Restoration Project

**Recommended Funding:** Not to exceed $3,180,000

**General Project Description:**

The Nature Conservancy (TNC) is proposing to restore and enhance native riparian habitat on three project sites within the Sacramento River National Wildlife Refuge (SRNWR) owned by the U.S. Fish and Wildlife Service (USFWS) that have been identified as having high potential for restoration of native riparian habitat that would benefit fish, wildlife and plant species dependent on a naturally functioning ecosystem.

The three project sites proposed for restoration occur within larger USFWS units within the SRNWR and are known by the names Pine Creek, Capay, and Dead Man's Reach. The proposed project would involve revegetation and restoration of native riparian habitat at project sites totaling approximately 836 acres with a combination of forest, savannah, and grassland habitats. To accomplish restoration, native riparian plant species would be planted and actively maintained for 3 years. Over time, habitat management and natural processes would control the species composition and overall structure of the plant communities. Most of the restoration work would occur between summer 2006 and fall 2009.

The ERP goals for the project include recovering endangered and other at-risk species, maintaining ecological processes, restoring expanses of habitat to support species, limiting nonnative invasive species, and improving water and sediment quality. Additionally, the proposed project meets the milestone of protecting and restoring the Sacramento River meander corridor consistent with Sacramento River Conservation Area river corridor management plans and processes. This riparian habitat restoration project would be accomplished within a science-based adaptive management framework, as detailed in the Ecosystem Restoration Program *Strategic Plan for Ecosystem Restoration.*

More specifically, the following list of USFWS and TNC objectives for the proposed project show the relationship between the CALFED Program ERP and the proposed project.

The objectives of this proposed project are to:

► Establish early-successional stage and late-successional stage native riparian habitat communities that have been severely reduced in extent along the Sacramento River since 1850.

► Provide habitat for neo-tropical migrant land birds.

► Provide potential habitat for the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), a species listed as threatened under the federal Endangered Species Act (ESA).

► Improve water quality by decreasing sediment and pesticide runoff into the Sacramento River.

► Provide shaded riverine aquatic (SRA) habitat for federally listed endangered winter-run Chinook salmon.

**California Environmental Quality Act (CEQA):** The California Bay-Delta Authority is the CEQA lead agency for the project. It is being asked to certify the Final Environmental Impact Report and adopt CEQA findings as outlined in Attachment 3. The Final EIR is located at calwater.ca.gov.

# 2 SUMMARY

## 2.1 INTRODUCTION

This document is a Draft EIR that has been prepared to evaluate the potential environmental effects of the Sacramento River-Chico Landing Subreach Habitat Restoration Project, which is proposed for implementation by TNC. It has been prepared under the direction of CBDA, which is the lead agency for CEQA compliance.

This summary is provided in accordance with State CEQA Guidelines Section 15123. As stated in Section 15123(a), "an EIR shall contain a brief summary of the proposed actions and its consequences. The language of the summary should be as clear and simple as reasonably practical." Pursuant to the State CEQA Guidelines, this section includes: (1) a summary description of proposed project elements, (2) a synopsis of environmental impacts of the proposed project and recommended mitigation measures (in tabular form), (3) identification of the alternatives evaluated and of the environmentally superior alternative, and (4) a discussion of potential areas of controversy associated with the project.

## 2.2 SUMMARY OF PROPOSED PROJECT ELEMENTS

The SRNWR is composed of many units (properties) between the cities of Red Bluff and Princeton beginning at river mile (RM) 240 and ending at RM 164. The three project sites proposed for restoration occur within larger USFWS units within the SRNWR and are known by the names Pine Creek, Capay, and Dead Man's Reach. The proposed project would involve revegetation and restoration of native riparian habitat at project sites totaling approximately 836 acres with a combination of forest, savannah, and grassland habitats. To accomplish restoration, native riparian plant species would be planted and actively maintained for 3 years. Over time, habitat management and natural processes would control the species composition and overall structure of the plant communities. Most of the restoration work would occur between summer 2006 and fall 2009. Restoration contractors would be responsible for project site preparation, planting, and maintenance, activities that would be overseen by TNC. Proposed project activities would begin in summer 2006 and would generally include:

- removal of debris (including a declining almond orchard on Dead Man's Reach) from the three project sites followed by disking and removal of nonnative invasive species (weeds);
- applications of herbicides alternated with disking to a depth of 6–8 inches to control weeds;
- replacement or retrofitting of irrigation systems;
- layout of the site according to TNC site plans using a palette of approximately 30 native riparian plant species;
- plantings of potted stock and cover crops, willow and cottonwood cuttings, and an understory herbaceous (grasses and forbs) layer between fall 2006 and fall 2007;
- weekly, monthly, and annual monitoring by TNC staff over a 3-year period to evaluate relative success of plantings at the restored project sites; and
- submittal of annual reports documenting monitoring results to the USFWS for review in January 2007, 2008, and 2009.

Resulting data would be used to compare species growth across different restoration project sites. TNC requires an 80% overall average survival rate for plantings, as well as an 80% ground cover establishment criterion for

seeded understory forb and grass species. TNC provides restoration activity updates to the SRCA Forum Technical Advisory Committee and Board of Directors.

## 2.3 ENVIRONMENTAL IMPACTS AND RECOMMENDED MITIGATION MEASURES

Table 2-1, "Summary of Impacts and Mitigation Measures" (included at the end of this chapter), provides a summary of the environmental impacts of the proposed habitat restoration project, the level of significance of each impact before mitigation, recommended mitigation measures, and the level of significance of each impact after implementation of the mitigation. As shown in Table 2-1, implementation of the proposed project could result in potentially significant impacts to undocumented or undiscovered prehistoric or historic archaeological resources during project implementation phases. These potential impacts would be mitigated to less than significant levels with implementation of Mitigation Measures 4.5-a and 4.5-b. The proposed project would restore some land used for agriculture to native riparian habitat, effectively removing it from agricultural production; however, this process would be neither irreversible nor cause serious degradation or elimination of the physical or natural conditions that provide the land's values for farming. In addition, the proposed project would provide several environmental benefits: re-establishment of fully functioning riparian ecosystems would benefit sensitive habitats, special-status plants, and wildlife species; restoring natural riparian areas would benefit Sacramento River system fisheries by increasing complexity of the aquatic environment and providing cover, food, and other habitat components. Furthermore, the proposed project would re-establish long-term processes and functions present in natural riparian communities, including the natural formation of soils that gave these lands their original agricultural value. Fully functioning riparian ecosystems are also known to improve groundwater and surface water quality by removing undesirable constituents such as nutrients and pesticides.

## 2.4 SUMMARY OF ALTERNATIVES

Guiding principles for an analysis of alternatives are provided by the State CEQA Guidelines Section 15126.6. In accordance with the State CEQA Guidelines, this Draft EIR evaluates the following three alternatives:

- Proposed project
- No project
- Passive restoration

An EIR is required to identify the environmentally superior alternative from among the range of reasonable alternatives that are evaluated. The *proposed project* alternative is the environmentally superior alternative of the alternatives considered. Under this alternative, native plant species would be planted and actively maintained for 3 years to allow the planted vegetation to become established. The proposed project would achieve the project objectives to restore and enhance native riparian vegetation consistent with guidelines and public policy decisions for management of lands along the middle Sacramento River.

The *no project* alternative would not achieve the project objectives of restoring and enhancing native vegetation to increase habitat values for threatened and endangered species, songbirds, waterfowl and other migratory birds, anadromous fish, resident riparian wildlife, and plants. It would be inconsistent with joint federal/state guidelines and policies for management of resources along the middle reaches of the Sacramento River.

Under the *passive restoration* alternative, the project sites would not be actively restored and enhanced; agricultural activities would cease at the Capay and Dead Man's Reach project sites and the Pine Creek project site would remain fallow. This alternative would rely on natural recruitment from adjacent remnant riparian communities to recolonize the fallow project lands, and on current hydrological conditions to sustain establishing seedlings. The eventual increase in wildlife habitat value is likely to be lower than is expected with the proposed project alternative because it would likely include many nonnative and invasive species, and natural recruitment of native species is likely to be very low. Long-term observations indicate that passive restoration is an infeasible

alternative for the project sites because the project objectives cannot be accomplished in a successful manner within a reasonable period of time, if ever. Similar to the no project alternative, the passive restoration alternative would not achieve the objectives for management of lands within the SRNWR.

## 2.5 AREAS OF CONTROVERSY

CBDA issued an NOP on November 5, 2004, to inform agencies and the public of the preparation of an EIR on a proposed project to restore and enhance native riparian habitat on three project sites within the SRNWR. The purpose of the NOP was to solicit comments from public agencies and interested members of the public on issues germane to the proposed project that should be considered in the Draft EIR. CBDA received four comment letters on the NOP. CBDA also held a scoping meeting for the public and agencies on November 16, 2004. Comments were presented by individuals at the public scoping meeting. Appendix A of this Draft EIR contains a copy of the NOP, scoping meeting notes, and copies of comment letters received.

Implementation of the proposed project would involve re-establishing native riparian habitat on agricultural lands. Whether restoration of riparian habitat on lands that have more recently been in agricultural uses would result in significant environmental impacts has been an issue for discussion by the affected public and state and federal agencies. This issue is discussed in detail in Section 4.2 “Agricultural Resources and Land Uses.”

**Table 2-1**
**Summary of Impacts and Mitigation Measures**

| Impact | Level of Significance Before Mitigation | Mitigation Measure | Level of Significance After Mitigation |
|---|---|---|---|
| **4.2 Agricultural Resources and Land Uses** | | | |
| **4.2-a. Change of Use From Agricultural Land to Restored Native Riparian Habitat.** The nature of the proposed project is habitat restoration, an activity consistent with federal and state legislation regarding the Sacramento River environment. The project sites were acquired with public funds from willing sellers for the express purpose of restoring the riparian corridor and wildlife habitat along this dynamic reach of the Sacramento River. These activities are consistent with both the legislative intent of establishing the SRNWR and the goals for the SRNWR, as provided in the SRNWR CCP. The proposed project would restore some agricultural acreage to native riparian habitat, effectively removing it from agricultural production; however, the proposed project would be neither irreversible nor cause serious degradation or elimination of the physical or natural conditions that provide the site's values for farming. The proposed project would not stop or hinder the agricultural practices that occur on neighboring properties. This impact is considered less than significant. | LTS | No mitigation is required. | LTS |
| **4.3 Hydrology, Water Quality, and River Geomorphology** | | | |
| **4.3-a. Changes in Flood Hydrology.** The proposed project would have the potential to change downstream and local flood hydrology on the Sacramento River by increasing vegetation densities on the floodplain. Modeling results predicted that downstream and local changes in flood stage elevations varied from localized increases up to 1 foot to decreases up to 0.5 foot and that downstream levee freeboard would be maintained at The Reclamation Board-mandated minimum of 3 feet. In addition, changes in elevation resulting from this project are likely to be less than indicated by the model because the model was used previously to evaluate effects from restoration of properties totaling approximately 1,800 acres, and the proposed project total acreage is approximately 836 acres, which represents about 46% less land area than what was previously evaluated. The changes in downstream and local flood hydrology would be less than significant. | LTS | No mitigation is required. | LTS |

**Table 2-1**
**Summary of Impacts and Mitigation Measures**

| Impact | Level of Significance Before Mitigation | Mitigation Measure | Level of Significance After Mitigation |
|---|---|---|---|
| **4.3-b. Changes in Geomorphic Processes.** Increasing vegetation densities on the floodplain would alter velocities in the existing floodway in the project area, possibly changing sediment transport, channel scouring, and meander migration. Any changes in velocities would be too small to significantly affect channel hydraulics or lead to erosive forces that could affect this already dynamic system. Also, bank stabilization efforts by others that may include placement of riprap would not be affected by the proposed project. The changes in geomorphic processes resulting from restoration activities would be less than significant. | LTS | No mitigation is required. | LTS |
| **4.3-c. Temporary Effects on Water Quality Associated with Proposed Project Implementation.** Implementation of the project would be accomplished through the use of standard agricultural practices already being used throughout the study area. These activities would include orchard removal, disking, seeding, and planting. Irrigation system modification and expansion would include standard trench and backfill techniques. Ground-disturbing activities associated with proposed project implementation are not expected to cause soil erosion and/or sedimentation of local drainages or the Sacramento River channel. Temporary effects on water quality associated with proposed project implementation would be less than significant. | LTS | No mitigation is required. | LTS |
| **4.3-d. Long-Term Effects on Water Quality and Water Temperature in the Sacramento River.** Runoff of potentially hazardous materials related to past agricultural activities would be reduced compared to current levels as many of the existing agricultural areas use pesticides and experience flooding. These materials could be transported downstream when the project area becomes inundated during flood events and could contaminate flood water and adversely affect river water quality. Pesticides are not anticipated to be used once restored native vegetation is established. Long-term effects on water quality associated with proposed project implementation would be beneficial. Furthermore, re-establishing native riparian habitat would have no discernible effect on water temperature, and may actually have a moderating effect. | B | Not applicable. | B |

**Table 2-1**
**Summary of Impacts and Mitigation Measures**

| Impact | Level of Significance Before Mitigation | Mitigation Measure | Level of Significance After Mitigation |
|---|---|---|---|
| **4.3-e. Change in Water Demand and Available Water Supply.** Over the long term, the proposed project would result in a decrease in the use of groundwater for irrigation. This decrease in water demand is considered a beneficial effect. | B | Not applicable. | B |
| **4.4 Biological Resources** | | | |
| **4.4-a. Change in Habitat Conditions.** Implementation of the proposed project would involve restoration of native Sacramento River riparian habitat on land that has been actively cultivated and on fallow agricultural habitats. It would not result in loss or disturbance of natural habitats or special-status plant species because these resources are not present in areas that would be disturbed during restoration activities. Restoration of natural habitat would, in fact, have a long-term beneficial effect to native vegetation and associated plant species. | B | Not applicable. | B |
| **4.4-b. Potential Effects on Wildlife.** Implementation of the proposed project would result in restoration of actively cultivated and fallow agricultural habitats that provide important habitat for some wildlife species. Habitat restoration could also result in loss or disturbance of special-status birds nesting on and/or adjacent to the project area during project implementation phases. However, the project has been designed to include avoidance and minimization measures that address potential impacts to nesting birds. (Refer to Chapter 3, "Description of the Proposed Project.") In addition, restoration of native habitats would have a long-term beneficial effect to native vegetation and associated wildlife species. | B | Not applicable. | B |
| **4.4-c. Potential Effects on Fisheries.** Implementation of the proposed project would not result in loss or disturbance of fish habitat or special-status fish because these resources are not present in areas that would be disturbed during restoration activities. Restoration of natural habitat would, in fact, have a long-term beneficial effect to fish. | B | Not applicable. | B |

**Table 2-1**
**Summary of Impacts and Mitigation Measures**

| Impact | Level of Significance Before Mitigation | Mitigation Measure | Level of Significance After Mitigation |
|---|---|---|---|
| **4.5 Cultural Resources** | | | |
| **4.5-a. Potential Disturbances to Undocumented Cultural Resources.** Implementation of the project would be accomplished through the use of standard agricultural practices already being used throughout the study area. Activities involving site preparation and planting may affect currently undiscovered or unrecorded archaeological sites. The possibility of disturbing unrecorded resources is considered a potentially significant impact. | PS | **4.5-a. If unrecorded cultural resources are encountered during project-related ground-disturbing activities, a qualified cultural resources specialist shall be contacted to assess the potential significance of the find.**<br><br>If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains, etc.) is made during project-related construction activities, ground disturbances in the area of the find will be halted within a 100-foot radius of the find, and TNC staff shall be notified of the discovery. At that time, TNC shall retain a professional archaeologist. The archaeologist shall determine whether the resource is potentially significant in accordance with CRHR criteria and develop appropriate mitigation. Appropriate mitigation may include no action, avoidance of the resource, and potential data recovery. | LTS |
| **4.5-b. Potential Disturbances to Undocumented Human Remains.** Currently undiscovered human remains may be uncovered during proposed project activities. The possibility of disturbing human remains is considered a potentially significant impact. | PS | **4.5-b. Stop potentially damaging work if human remains are uncovered during project-related ground-disturbing activities, assess the significance of the find, and pursue appropriate management.**<br><br>State law recognizes the need to protect human interments and Native American burials in particular from vandalism and inadvertent destruction. This includes skeletal remains, and items associated with Native American interments. The procedures for the treatment of human remains are contained in California Health and Safety Code Sections 7050.5 and 7052, and California Public Resources Code Section 5097.<br><br>In accordance with the California Health and Safety Code, if human remains are uncovered during ground disturbances, TNC and its contractors shall immediately halt potentially damaging excavation in the area of the burial and notify the respective County Coroner and a professional archaeologist. The California Health and Safety Code requires that if human remains are found | LTS |

**Table 2-1**
**Summary of Impacts and Mitigation Measures**

| Impact | Level of Significance Before Mitigation | Mitigation Measure | Level of Significance After Mitigation |
|---|---|---|---|
| | | in any location other than a dedicated cemetery, excavation is to be halted in the immediate area, and the county coroner is to be notified to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by telephone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). Following the coroner's findings, the archaeologist, the Native American Heritage Commission designated Most Likely Descendent (MLD), and the archaeologist shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities of TNC for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.9. | |
| **Cumulative Impacts** | | | |
| The proposed project would result in no cumulatively considerable adverse impacts to the natural resources (e.g., soils) present on the land in the study area. Nor would it result in cumulative adverse impacts to hydrology, water quality, or river geomorphology. No cumulatively considerable impacts would occur to cultural resources. The proposed project would result in cumulative beneficial impacts to sensitive habitats, native vegetation, and associated wildlife species. It would also result in cumulative beneficial impacts to Sacramento River fisheries. Re-establishing fully functioning riparian ecosystems would result in cumulative beneficial effects to groundwater and surface water quality.<br><br>Together, the activities of the CALFED Program, the Sacramento River Conservation Area Forum, the Central Valley Project Improvement Act program, and USFWS are coordinated and comprise a concert of programs and projects with overlapping goals and objectives. | | | |
| B = Beneficial Impact | LTS = Less-than-Significant Impact | PS = Potentially Significant Impact | |

# FINDINGS REGARDING THE SACRAMENTO RIVER - CHICO LANDING SUBREACH HABITAT RESTORATION PROJECT

## A. INTRODUCTION

The California Bay-Delta Authority (Authority) proposes to fund a habitat enhancement and restoration project (Project) at three sites in the Sacramento River National Wildlife Refuge (SRNWR) owned by the U.S. Fish and Wildlife Service (USFWS) – Pine Creek, Capay, and Dead Man's Reach. The Authority is the lead agency for the Project.

The California Environmental Quality Act (CEQA) provides that a public agency shall not approve a project with significant environmental impacts when there are feasible mitigation measures or feasible alternatives that can substantially lessen or avoid those impacts. Only when there are specific economic, legal, social, technological, or other considerations that make it infeasible to substantially lessen or avoid a significant impact can a project with significant impacts be approved.

Upon completion of an Environmental Impact Report (EIR) that identifies one or more potentially significant environmental impacts, the approving agency must make one or more of the following findings for each identified significant impact:

1. Changes or alternatives that avoid or substantially lessen the significant environmental effects as identified in the EIR have been required or incorporated into the project, or

2. Such changes or alternatives are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency, or

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the EIR.

   (Public Resources Code Section 21081(a).)

Furthermore, where the above-described findings reveal that one or more environmental impacts would remain significant even after the imposition of all feasible mitigation measures, and after the consideration of feasible project alternatives, the agency may not approve the project without first adopting a "statement of overriding considerations" that identifies the specific economic, legal, social, technological, or other benefits of the project that the agency's decision-making body believes outweigh the significant environmental impact(s) (Public Resources Code Section 21081[b]).

The Authority prepared an EIR for the Project to analyze potential significant effects that could occur as a result of the Project and determined that all of the potential significant impacts reviewed would be mitigated to less than significant levels by mitigation measures identified in the EIR and its Mitigation Monitoring and Reporting Program. In accordance with CEQA, the Authority adopts these Findings of Fact for the Project.

## B. PROJECT DESCRIPTION

The Sacramento River—Chico Landing Subreach Habitat Restoration Project consists of habitat enhancement and restoration actions on three SRNWR parcels located between river miles (RM) 178 and RM 206, within Butte and Glenn Counties. The Project would be implemented by The Nature Conservancy and focus on enhancing and restoring native riparian habitat on approximately 836 total acres with a combination of forest, savannah, and grassland habitats. To accomplish this, native riparian plant species would be planted and actively maintained from summer 2006 to fall 2009. Specifically, the Project would consist of vegetation removal and replacement to improve the ecological health and long-term viability of at-risk species and biological communities of the Sacramento River while simultaneously increasing the benefits (e.g., improved water quality, flood damage reduction) that the river provides for humans. The intended replacement vegetation includes grasses, cover crops, willows, cottonwoods, and oaks.

The project is consistent with the objectives of the CALFED Ecosystem Restoration Program and the guidance contained in the CALFED Final Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and the SRNWR Comprehensive Conservation Plan.

## C. ENVIRONMENTAL REVIEW PROCESS

In 2004 the Authority prepared a CEQA Initial Study for the Project. The Initial Study concluded that implementation of the Project had the potential to result in significant impacts to biological resources, agricultural resources, cultural resources, and hydrology and water quality.

On November 5, 2004, the Authority issued a Notice of Preparation (NOP) of an EIR to inform agencies and the public about the Project. The purpose of the NOP was to solicit comments on issues germane to the Project that should be considered in the Draft EIR. The Authority received four comment letters on the NOP. The Authority also held a public scoping meeting on November 16, 2004.

The Authority oversaw preparation of a Draft EIR in accordance with the requirements of CEQA (Public Resources Code 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations Section 15000 et seq.). The Draft EIR evaluated the potential environmental impacts of the proposed Project for the following resource areas: agricultural resources and land uses; hydrology, water quality, and river geomorphology; terrestrial biological resources and fisheries; and cultural resources. The Draft EIR identified that all of the potential significant impacts reviewed would be mitigated to less than significant levels by mitigation measures identified in the Draft EIR.

On June 23, 2005, the Authority distributed the Draft EIR to agencies and the public. In accordance with Section 15105(a) of the State CEQA Guidelines, the Authority provided a 45-day public review period for the Draft EIR that ended on August 8, 2005. The Authority also held a public meeting on July 25, 2005 at the Hamilton City Fire Department. The meeting provided an opportunity for people to ask questions about the Project and the Draft EIR and to express comments and concerns.

According to State CEQA Guidelines Section 15088, a lead agency must evaluate comments on environmental issues that it receives from persons who reviewed a Draft EIR on a project, and must prepare written responses to comments that raise significant environmental points. During the public comment period for this Project, the Authority received 34 comments from 12 individuals who spoke at the public meeting and/or wrote comment letters. The Authority prepared a Final EIR in accordance with Sections 15088, 15089 and 15132 of the State CEQA Guidelines. The Final EIR was released on October 28, 2005 and contains responses to all comments on significant environmental issues related to the Draft EIR. The Draft and Final EIR documents comprise the complete Final EIR for the Project.

## D. ENVIRONMENTAL IMPACTS

The Final EIR identified potential adverse impacts to cultural resources stemming from the implementation of the Project. The Final EIR also identified mitigation measures that would reduce or eliminate these impacts. No significant unavoidable adverse impacts are associated with approval of the Project. No statement of overriding considerations will be adopted as part of the consideration by the Authority in approving the Project. The mitigation measures provided below are hereby incorporated as a condition of approval.

## E. SIGNIFICANT AND POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS REDUCED TO LESS-THAN-SIGNICANT LEVELS BY MITIGATION MEASURES INCORPORATED AS CONDITIONS OF APPROVAL

Section 21081.6 of the California Public Resources Code and Sections 15091(d) and 15097 of the State CEQA Guidelines require public agencies "to adopt a reporting and monitoring program for changes to the project which it has adopted or made a condition of project approval in order to or avoid significant impacts on the environment." The Mitigation Monitoring and Reporting Program provided in the Final EIR describes mitigation monitoring responsibilities, mitigation timing, and compliance verification responsibility for mitigation measures.

The following potentially significant adverse impacts associated with approval of the Project are reduced to a less-than-significant level by mitigation measures identified in the Final EIR and incorporated into the Project.

1. Cultural Resources: The Final EIR identified that unrecorded cultural resources may be encountered or human remains may become uncovered during project-related ground-disturbing activities. These potentially significant impacts are predominately related to construction and are short term in nature. All the potentially significant impacts are mitigated through specific mitigations measures identified in the Final EIR. The Nature Conservancy and its contractors will be responsible for the successful implementation of the mitigation measures listed below:

   *a. If unrecorded cultural resources are encountered during project-related ground-disturbing activities, a qualified cultural resources specialist shall be contacted to assess the potential significance of the find.* If an inadvertent discovery of cultural materials (e.g., unusual amounts of shell, animal bone, bottle glass, ceramics, structure/building remains, etc.) is made during project-related construction activities, ground disturbances in the area of the find will be halted within a 100-foot radius of the find, and TNC staff shall be notified

of the discovery. At that time, TNC shall retain a professional archaeologist. The archaeologist shall determine whether the resource is potentially significant in accordance with the CRHR criteria and develop appropriate mitigation. Appropriate mitigation may include no action, avoidance of the resource, and potential data recovery.

*b. Stop potentially damaging work if human remains are uncovered during project-related ground-disturbing activities, assess the significance of the find, and pursue appropriate management.* State law recognizes the need to protect human interments and Native American burials in particular from vandalism and inadvertent destruction. This includes skeletal remains, and items associated with Native American interments. The procedures for the treatment of human remains are contained in California Health and Safety Code Sections 7050.5 and 7052 and California Public Resources Code Section 5097. In accordance with the California Health and Safety Code, if human remains are uncovered during ground disturbances, TNC and its contractors shall immediately halt potentially damaging excavation in the area of the burial and notify the respective Count Coroner and a professional archeologist. The California Health and Safety Code requires that if human remains are found in any location other than a dedicated cemetery, excavation is to be halted in the immediate area, and the county coroner is to be notified to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by telephone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). Following the coroner's findings, the archeologist and the Native American Heritage Commission designated Most Likely Descendant (MLD) shall determine the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human interments are not disturbed. The responsibilities of TNC for acting upon notification of a discovery of Native American human remains are identified in California Public Resources Code Section 5097.9.

**Finding.** The Authority makes the following finding regarding the cultural resources impact described above: Changes or alternatives that avoid or substantially lessen the significant environmental effects as identified in the EIR have been required or incorporated into the project.

By implementing the mitigation measure described above, the cultural resources impact would be reduced to a less-than-significant level.

## F. ADDITIONAL FINDINGS

1. The Authority has reviewed and considered the environmental effects of the Project as reflected in the Final EIR.

2. The Authority finds that the Final EIR was completed in compliance with CEQA.

3. The Authority further finds that there are no feasible alternatives or mitigation measures within the power of the Authority, other than those previously identified in the Final EIR that would substantially lessen or avoid any potential environmental effect of the Project.

4. The Project is found to be consistent with the goals and objectives of the CALFED Ecosystem Restoration Program.

5. No significant unavoidable adverse impacts are associated with approval of the Project. No statement of overriding considerations will be adopted as part of the consideration by the Authority of approving the Project.

6. The Authority hereby adopts the conditions of project approval and the Final EIR. The Authority's Findings address each identified significant environmental effect of the Project in accordance with Public Resources Code section 21081.

7. The Authority hereby finds that, upon consideration of the record as a whole, there is no evidence before it that the Project has a potential for any new adverse effect on wildlife resources, or the habitat upon which the wildlife depends. Because the Project is designed to improve wildlife and fish habitat, in addition to the consistent and on-going coordination with the state and federal agencies that have authority for the protection of fish and wildlife resources by the lead agency, the Project will not contribute to potential cumulative development impacts to such wildlife.

CALIFORNIA BAY-DELTA AUTHORITY

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**Agenda Item: 8A**
**Meeting Dates: December 8, 2005**

# CALIFORNIA BAY-DELTA AUTHORITY

## RESOLUTION 05-12-03

## CERTIFYING A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SACRAMENTO RIVER – CHICO LANDING SUBREACH HABITAT RESTORATION PROJECT, ADOPTING CEQA FINDINGS, APPROVING AN ECOSYSTEM RESTORATION PROGRAM GRANT FOR THAT PROJECT AND AUTHORIZING THE DIRECTOR, OR DESIGNEE, TO PROCESS THE APPROVED GRANT

**WHEREAS**, the Ecosystem Restoration Program presents a comprehensive vision for improving and increasing aquatic and terrestrial habitats and improving ecological functions in the Bay-Delta ecosystem; and

**WHEREAS**, those State and Federal agencies with CALFED Program restoration funds have coordinated their efforts to solicit for, and select, the best projects to implement the Ecosystem Restoration Program, with assistance of the staff from the California Bay-Delta Authority; and

**WHEREAS**, the Selection Panel or the Ecosystem Restoration Program's Proposal Solicitation Package process recommended funding in the amount of $3,873,663 to The Nature Conservancy for both planning and restoration implementation, but in June 2004, the Authority granted only $693,657 to complete the site's restoration plan, carry out research activities and prepare environmental documents required by CEQA, and

**WHEREAS**, the Authority has received an appropriation of Proposition 204 Bay-Delta Ecosystem Restoration Account funds in its Fiscal Year 2006/2007 Budget; and

**WHEREAS**, the Authority may distribute funds through grants; and

**WHEREAS**, the proposal listed below constitutes an eligible project for purposes of receiving Proposition 204 Bay-Delta Ecosystem Restoration Account funds; and

**WHEREAS**, the project has met the requirements under state law and has developed a Final Environmental Impact Report (Final EIR);

**NOW, THEREFORE, BE IT RESOLVED** that the Authority hereby certifies that (1) the Final EIR has been completed in compliance with California Environmental Quality Act (CEQA); (2) the Final EIR was presented to the Authority and the Authority has reviewed and considered the information contained in the Final EIR; and (3) the Final EIR reflects the Authority's independent judgment and analysis.

The Authority hereby adopts the CEQA findings accompanying this resolution and the mitigation and monitoring plan presented in the Final EIR.

**BE IT FURTHER RESOLVED** that the Authority hereby approves the grant to The Nature Conservancy for the Chico Landing Subreach Habitat Restoration Project in the amount of not to exceed $3,180,000 and authorizes the Director, or his designee, to process the approved grant, subject to the availability of appropriated funds; and directs the Director, or his designee, to file a Notice of Determination.

**CERTIFICATION**

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted at a meeting of the California Bay-Delta Authority held on December 8, 2005.

**Dated:** _____

_____
**Olene Chard**
**Assistant to the California Bay-Delta Authority**